

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #01	CCRB Case #: 201909838	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 10/24/2019 3:00 PM, Thursday, 10/24/2019 3:05 PM	Location of Incident: Leonard and Ten Eyck Streets in Brooklyn Leonard and Stagg Streets in Brooklyn	Precinct: 90	18 Mo. SOL 4/24/2021	EO SOL 12/9/2021	
Date/Time CV Reported Sun, 11/10/2019 4:17 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Sun, 11/10/2019 4:17 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Tyler Howe	14840	961822	090 PCT
2. SGT Gregg Minardi	00608	940475	090 PCT
3. POM Michael Crichlow	20395	960083	090 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Philippe Vukosa	22128	953542	090 PCT
2. POM Daniel Manetta	11047	956069	090 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Gregg Minardi	Discourtesy: At Leonard and Ten Eyck Streets in Brooklyn, Sergeant Gregg Minardi spoke discourteously to § 87(2)(b)	
B.SGT Gregg Minardi	Abuse: At Leonard and Stagg Streets in Brooklyn, Sergeant Gregg Minardi stopped § 87(2)(b)	
C.SGT Gregg Minardi	Abuse: At Leonard and Stagg Streets in Brooklyn, Sergeant Gregg Minardi stopped § 87(2)(b)	
D.SGT Gregg Minardi	Abuse: At Leonard and Stagg Streets in Brooklyn, Sergeant Gregg Minardi threatened to arrest § 87(2)(b)	
E.SGT Gregg Minardi	Abuse: At Leonard and Stagg Streets in Brooklyn, Sergeant Gregg Minardi threatened to arrest § 87(2)(b)	
F.POM Tyler Howe	Force: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe used physical force against § 87(2)(b)	
G.POM Tyler Howe	Discourtesy: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe spoke discourteously to § 87(2)(b)	
H.POM Tyler Howe	Discourtesy: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe spoke discourteously to § 87(2)(b)	
I.POM Tyler Howe	Force: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
J.POM Tyler Howe	Abuse: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe frisked § 87(2)(b)	
K.POM Tyler Howe	Abuse: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe searched § 87(2)(b)	
L.POM Tyler Howe	Abuse: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe threatened § 87(2)(b) with the use of force.	
M.SGT Gregg Minardi	Abuse: At Leonard and Stagg Streets in Brooklyn, Sergeant Gregg Minardi threatened § 87(2)(b) with the use of force.	
N.SGT Gregg Minardi	Abuse: At Leonard and Stagg Streets in Brooklyn, Sergeant Gregg Minardi interfered with § 87(2)(b) use of a recording device.	
O.POM Michael Crichlow	Abuse: At Leonard and Stagg Streets in Brooklyn, Police Officer Michael Crichlow searched § 87(2)(b)	
P.POM Tyler Howe	Abuse: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe searched § 87(2)(b)	
Q.SGT Gregg Minardi	Abuse: Sergeant Gregg Minardi failed to provide § 87(2)(b) with a business card.	
R.SGT Gregg Minardi	Abuse: Sergeant Gregg Minardi failed to provide § 87(2)(b) with a business card.	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	

### Case Summary

On November 10, 2019, § 87(2)(b) called the CCRB and filed this complaint on behalf of himself and his two co-workers, § 87(2)(b) and § 87(2)(b).

On October 24, 2019, at approximately 3:00 p.m., in the vicinity of Leonard and Ten Eyck Streets in Brooklyn, Sergeant Gregg Minardi of the 90<sup>th</sup> Precinct spoke discourteously to § 87(2)(b) (Allegation A: Discourtesy, § 87(2)(g)). Sgt. Minardi stopped § 87(2)(b) and § 87(2)(b) in the vicinity of Leonard and Stagg Streets in Brooklyn (Allegations B and C: Abuse of Authority, § 87(2)(g)) and threatened to arrest them (Allegations D and E: Abuse of Authority, § 87(2)(g)). Police Officer Tyler Howe of the 90<sup>th</sup> Precinct used physical force against § 87(2)(b) (Allegation F: Force, § 87(2)(g)) and spoke discourteously to him (Allegation G: Discourtesy, § 87(2)(g)). PO Howe spoke discourteously to § 87(2)(b) (Allegation H: Discourtesy, § 87(2)(g)) and used physical force against him (Allegation I: Force, § 87(2)(g)). PO Howe frisked § 87(2)(b) (Allegation J: Abuse of Authority, § 87(2)(g)) and searched him (Allegation K: Abuse of Authority, § 87(2)(g)). PO Howe and Sgt. Minardi threatened § 87(2)(b) with the use of force (Allegations L and M: Abuse of Authority, § 87(2)(g)). Sgt. Minardi interfered with § 87(2)(b) use of a recording device (Allegation N: Abuse of Authority, § 87(2)(g)). Police Officer Michael Crichlow of the 90<sup>th</sup> Precinct searched § 87(2)(b) (Allegation O: Abuse of Authority, § 87(2)(g)). PO Howe searched § 87(2)(b) (Allegation P: Abuse of Authority, § 87(2)(g)). Sgt. Minardi failed to provide § 87(2)(b) and § 87(2)(b) with business cards (Allegations Q and R: Abuse of Authority, § 87(2)(g), § 87(2)(g), § 87(4-b)).

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) was arrested as a result of this incident (Board Review 01). No other arrests or summonses resulted.

Two cellphone and four police body worn camera (BWC) videos were received for this case (Board Review 02 – Board Review 07).

**Allegation (A) Discourtesy: At Leonard and Ten Eyck Streets in Brooklyn, Sergeant Gregg Minardi spoke discourteously to § 87(2)(b).**

**Allegation (B) Abuse of Authority: At Leonard and Stagg Streets in Brooklyn, Sergeant Gregg Minardi stopped § 87(2)(b).**

**Allegation (C) Abuse of Authority: At Leonard and Stagg Streets in Brooklyn, Sergeant Gregg Minardi stopped § 87(2)(b).**

**Allegation (D) Abuse of Authority: At Leonard and Stagg Streets in Brooklyn, Sergeant Gregg Minardi threatened to arrest § 87(2)(b).**

**Allegation (E) Abuse of Authority: At Leonard and Stagg Streets in Brooklyn, Sergeant Gregg Minardi threatened to arrest § 87(2)(b).**

**Allegation (N) Abuse of Authority: At Leonard and Stagg Streets in Brooklyn, Sergeant Gregg Minardi interfered with § 87(2)(b) use of a recording device.**

It is not disputed that Sgt. Minardi stopped § 87(2)(b), § 87(2)(b) and § 87(2)(b) and that the stop resulted in the arrest of § 87(2)(b) (Board Review 01). The circumstances surrounding the stop are, however, disputed. It is also disputed whether Sgt. Minardi spoke discourteously towards § 87(2)(b), threatened to arrest § 87(2)(b) and § 87(2)(b) and interfered with § 87(2)(b) use of a recording device.

§ 87(2)(b), § 87(2)(b) and § 87(2)(b) (Board Review 07 – Board Review 09), all provided consistent testimonies. They said that they were walking southbound on Leonard Street in Brooklyn, and were heading home from work. § 87(2)(b), § 87(2)(b) and § 87(2)(b) are paraprofessional teachers at § 87(2)(b) located at § 87(2)(b). The

three men walked on the sidewalk, and did not interact with anyone. At some point, while crossing the street at the intersection of Leonard and Ten Eyck Street, the three men saw an unmarked silver sedan with two officers in driver's and front passenger's seats, identified via investigation as PO Howe and Sgt. Minardi, respectively. The officers' vehicle was facing east on Ten Eyck Street. § 87(2)(b) and § 87(2)(b) crossed Ten Eyck Street and continued to walk south on Leonard Street. PO Howe and Sgt. Minardi stared at the three men while they crossed the street. § 87(2)(b) and § 87(2)(b) wondered why the officers stared at them. § 87(2)(b) who recognized Sgt. Minardi from a number of prior encounters, said to § 87(2)(b) and § 87(2)(b) "Those are the dickhead officers from my neighborhood." Sgt. Minardi and PO Howe, who appeared to have heard what § 87(2)(b) said, made a left turn onto Leonard Street, and Sgt. Minardi said to § 87(2)(b) "It takes one to know one, you are the bigger dick." § 87(2)(b) and Sgt. Minardi engaged in an argument in which additional profanities were used, but § 87(2)(b) and § 87(2)(b) did not recall what was said. § 87(2)(b) and § 87(2)(b) continued to walk southbound on Leonard Street. The officers also drove south on Leonard Street, but slowly. The three men approached the intersection of Leonard and Stagg Streets, which was approximately one block from Ten Eyck Street. § 87(2)(b) said that a white minivan, which was on the northbound section of Leonard Street, made a left turn onto Stagg Street just about the same time the three men approached the intersection, which had a crosswalk on Stagg Street. The driver of the minivan, stopped and motioned with his hand in a manner that suggested that § 87(2)(b) and § 87(2)(b) cross the street. The three men crossed the street, at which point the driver of the minivan drove off. § 87(2)(b) on the other hand said, there was no vehicle on Stagg Street when they approached the intersection, but that the minivan made the turn onto Stagg Street while the three men were halfway into crossing the street, and that the driver voluntarily stopped and allowed the three men to complete crossing the street. § 87(2)(b) did not recall seeing any vehicle while crossing the street. § 87(2)(b) and § 87(2)(b) all denied that they improperly crossed the street, said they never obstructed traffic, nor did they, at any point, nearly collide with any vehicle in the street. PO Howe and Sgt. Minardi immediately activated their siren as the three men crossed the street and continued walking south on Leonard Street. The officers exited their vehicle and approached the three men on the sidewalk. § 87(2)(b) and § 87(2)(b) all alleged that Sgt. Minardi yelled, "You are going to jail," whilst approaching them. § 87(2)(b) and § 87(2)(b) believed the statement was directed towards all of them. The three men collectively asked Sgt. Minardi why they were going to jail, and Sgt. Minardi replied for disorderly conduct. Sgt. Minardi said the three men nearly collided with the white minivan while crossing the street, and that their actions constituted obstruction of vehicular traffic. The three men denied obstructing vehicular traffic and accused the officers of harassment. § 87(2)(b) took out his cellphone and began to record. The officers appeared to focus their attention on § 87(2)(b) who argued with the officers. § 87(2)(b) was ultimately handcuffed and transported to the 90<sup>th</sup> Precinct, where he was charged with resisting arrest, disorderly conduct for obstructing vehicular traffic, and obstruction of governmental administration (Board Review 01) (A stop and threat of arrest allegations were thus not pleaded on behalf of § 87(2)(b) as a result of his arrest). Sgt. Minardi grabbed § 87(2)(b) hand, which held the cellphone, turned § 87(2)(b) around, and handcuffed him. § 87(2)(b) did not know why he was handcuffed, but said he believed Sgt. Minardi handcuffed him because he was recording, and that § 87(2)(b) who was not recording, was never handcuffed. § 87(2)(b) and § 87(2)(b) were ultimately released at the scene without any summonses.

§ 87(2)(b) recorded portions of this incident on his cellphone (Board Review 02), and it shows PO Howe and Sgt. Minardi handcuffing § 87(2)(b). At 00:20 of the video run time, PO Howe and Sgt. Minardi tell § 87(2)(b) that he is going to jail for disorderly conduct. At 00:51, Sgt. Minardi appears to grab § 87(2)(b) right hand, which is holding the cellphone, and turns

§ 87(2)(b) around. § 87(2)(b) appears to put the phone in his left hand, at which point the footage ends.

§ 87(2)(b) provided another cellphone video, which was recorded by an unidentified civilian, but the video only captures the conclusion of this incident (Board Review 03).

Sgt. Minardi and PO Howe recorded portions of this incident on their BWCs. Their footage captures the same incident, but from different angles, and each begins with the officers approaching the three men on the sidewalk. PO Howe's BWC (Board Review 04) shows PO Howe exiting the police vehicle, and approaching a sidewalk on his left. Sgt. Minardi is already on the sidewalk, and has his hands stretched towards § 87(2)(b) and § 87(2)(b) identified via investigation, who are walking together. § 87(2)(b) is a few feet behind § 87(2)(b) and § 87(2)(b). § 87(2)(b) is wearing what appears to be green cargo pants, a red T-shirt, and a grey sleeveless hoodie. § 87(2)(b) is wearing a blue hoodie and blue jeans, whereas § 87(2)(b) is wearing dark pants, what appears to be dark hoodie, and a dark puffer jacket. The three men stop walking, and appear to speak with Sgt. Minardi, but no audio is captured due to the 30-second buffer on the BWC. At 00:30, the audio engages, and captures what appears to be an argument between the two officers and § 87(2)(b). § 87(2)(b) has his back against a metal fence with rails. At 00:50, PO Howe repeatedly tells § 87(2)(b) to stop reaching into his pockets. § 87(2)(b) and PO Howe are facing each other, and PO Howe appears to attempt to grab § 87(2)(b) left arm. At 01:00 § 87(2)(b) appears to be tensing his body and pushing PO Howe's hands away from his body. At 01:08, PO Howe says to § 87(2)(b) "You are going to jail bro." At 01:19, Sgt. Minardi tells § 87(2)(b) that he is being arrested for obstructing vehicular traffic. § 87(2)(b) denies obstructing vehicular traffic and says the three men had the right of way. At 01:22, PO Howe and Sgt. Minardi turn § 87(2)(b) around and handcuff his left arm. At 01:25, § 87(2)(b) appears to have wrapped his right arm around one of the metal bars of the fence, and does not comply with the officers orders to remove and give them his arm. At 02:00, PO Howe and Sgt. Minardi handcuff § 87(2)(b).

Sgt. Minardi's BWC (Board Review 05), at 00:50, shows Sgt. Minardi approach § 87(2)(b) who is holding his cellphone vertically in his right hand, and appears to grab and bring § 87(2)(b) right hand behind his back. It is unclear if Sgt. Minardi takes § 87(2)(b) cellphone. At 01:00, Sgt. Minardi handcuffs § 87(2)(b). At 01:20, Sgt. Minardi approaches § 87(2)(b) who is standing next to § 87(2)(b) and appears to be holding § 87(2)(b) arm. At 01:28, Police Officers Daniel Manetta, Michael Cirschlow, and Philippe Vukosa, all identified via investigation, arrive on scene. At 02:00, § 87(2)(b) tells Sgt. Minardi that he did not say anything to the officers. Sgt. Minardi replies that they were not stopped because they were talking, but that the officers observed the three civilians walk right in front of a vehicle while crossing the street, and that the vehicle had to "stop short" to avoid hitting them. At 02:18, § 87(2)(b) denies that the vehicle stopped in order to avoid hitting them, and said the vehicle stopped before the three men got to the crosswalk. Sgt. Minardi tells § 87(2)(b) that the vehicle stopped because the three men were in the street. At 02:30, § 87(2)(b) replies, "That is not true." At 02:59, Sgt. Minardi tells § 87(2)(b) that the stop has nothing to do with being called a dickhead, and that the three men obstructed vehicular traffic. At 04:11, Sgt. Minardi instructs PO Howe, PO Cirschlow, and PO Vukosa, who are standing with § 87(2)(b) and § 87(2)(b) to warn and admonish them if they have no warrants. Sgt. Minardi then tells § 87(2)(b) to be careful when crossing the street. At 04:30, § 87(2)(b) asks why he is handcuffed, and § 87(2)(b) is not. Sgt. Minardi informs § 87(2)(b) that he and § 87(2)(b) were both detained, that Sgt. Minardi felt the need to handcuff all three men due to § 87(2)(b) aggression, and that Sgt. Minardi was about to handcuff § 87(2)(b) when the additional officers arrived. Sgt. Minardi, however, felt there was no need to handcuff § 87(2)(b) because there were enough officers on scene. At 05:00, PO Howe removes § 87(2)(b) handcuffs. At 05:17, Sgt. Minardi tells § 87(2)(b) and § 87(2)(b) that they are being released with a warning rather than being issued a summons, and that the two men should be careful next time when crossing the street. At 06:20, § 87(2)(b) and § 87(2)(b) walk away.

There was no stop report prepared for this incident (Board Review 08 – Board Review 09).

§ 87(2)(b)

Sgt. Minardi and PO Howe's testimonies (Board Review 10 – Board Review 11) were consistent with their BWCs. They also corroborated portions of § 87(2)(b) and § 87(2)(b) testimonies, but with the following exceptions. Sgt. Minardi and PO Howe said that they were patrolling the incident location when they saw the three men walk in front of their vehicle at the intersection of Leonard and Ten Eyck Streets. Sgt. Minardi acknowledged having had prior encounters with § 87(2)(b) and said § 87(2)(b) was a member of a local gang called the Young Stackers Crew. PO Howe did not know any of the three civilians. PO Howe and Sgt. Minardi said their full attentions were drawn to the three men when § 87(2)(b) began hurling profanities and obscenities at the officers. PO Howe and Sgt. Minardi did not recall what § 87(2)(b) said, except that he called the officers "dickheads," and said they should "suck his dick." PO Howe and Sgt. Minardi did not recall responding to § 87(2)(b) and Sgt. Minardi did not recall calling § 87(2)(b) a "dickhead," nor did he recall using any profanities towards § 87(2)(b). PO Howe did not recall hearing Sgt. Minardi using any profanities towards § 87(2)(b).

Sgt. Minardi and PO Howe drove southbound on Leonard Street, and stopped at a stop sign at the intersection of Leonard and Stagg Streets. § 87(2)(b), § 87(2)(b), and § 87(2)(b) who were also walking southbound on Leonard Street, approached the intersection, and proceeded to cross the street on Stagg Street without looking for oncoming traffic. The three men consequently walked directly in front of a vehicle that had made a left turn on Stagg Street, and the driver of that vehicle had to immediately apply the brakes to avoid hitting any of the three men. PO Howe and Sgt. Minardi did not recall if there was a crosswalk at the intersection, but said the driver had the right of way. PO Howe and Sgt. Minardi denied that the driver voluntarily stopped to allow the three men cross the street, and said the manner in which the driver applied its brakes suggested that the driver was caught off guard by the presence of the three men. Sgt. Minardi thus decided to stop the three men and investigate why they had dangerously and recklessly crossed the street. Sgt. Minardi denied that § 87(2)(b) use of profanities towards the officers factored into the decision to stop § 87(2)(b) and his colleagues, and said the sole reason why he decided to stop them was because their actions obstructed vehicular traffic.

PO Howe, however, acknowledged that § 87(2)(b) use of profanities towards the officers factored into the decision to stop the three men, but did not recall having any conversations with Sgt. Minardi prior to stopping the three men. PO Howe said that § 87(2)(b) use of profanities towards the officers, coupled with the officers observation of the dangerous manner in which the three men crossed the street, gave the officers reasonable grounds to stop them for disorderly conduct. PO Howe and Sgt. Minardi said that none of the three men were considered under arrest at the time the decision was made to stop them, although they all could have been arrested or summonsed for disorderly conduct, and that at no point during this incident did Sgt. Minardi inform or threaten to arrest § 87(2)(b) and § 87(2)(b). Sgt. Minardi said he handcuffed § 87(2)(b) because the officers were outnumbered by the three men, and that he felt it was necessary to handcuff all three men primarily for safety reasons, and especially because of § 87(2)(b) aggressive behavior towards the officers. Sgt. Minardi denied that § 87(2)(b) was handcuffed because he was recording, and said the only reason why § 87(2)(b) was not ultimately handcuffed was because the additional officers arrived on scene, and that Sgt. Minardi felt there were enough officers on scene to handle all three men. Sgt. Minardi said § 87(2)(b) was arrested because he actively resisted and failed to comply with the officers orders to stop reaching into his pockets and give them his hands. § 87(2)(b) and § 87(2)(b) on the other hand, cooperated with the officers, and had no active warrants. Sgt. Minardi thus used his discretion

to release § 87(2)(b) and § 87(2)(b) with a warning, rather than issue them summonses for obstructing vehicular traffic.

A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof obstructs vehicular or pedestrian traffic. New York State Penal Law § 240.20(5) (Board Review 12).

NYPD Patrol Guide Procedure 203-29, permits individuals to observe and record police activities. However, the right to record police activities, can be limited for reasons such as officer and civilian safety, or when a law enforcement action is being taken against the individual who is videotaping (Board Review 13).

The cellphone and BWC videos do not depict anything that might have transpired prior to Sgt. Minardi and PO Howe approaching § 87(2)(b) § 87(2)(b) and § 87(2)(b) on the sidewalk, and thus does not establish whether Sgt. Minardi used profanities towards § 87(2)(b) nor does it establish whether the three men crossed the street in a manner that obstructed vehicular traffic or constituted disorderly conduct. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Although none of the videos depict any of the officers making any statements about arresting § 87(2)(b) or § 87(2)(b) the BWC shows that Sgt. Minardi was the first to approach the three men on the sidewalk, and appeared to speak with them during the 30-seconds buffer of the BWC where no audio is captured. It is therefore possible that Sgt. Minardi during that buffer period made the alleged statement about taking the three men to jail. However, due to conflicting civilian and officers statements, and absent any additional evidence that establishes that § 87(2)(b) and § 87(2)(b) committed a violation, the investigation could not determine by the preponderance of the evidence whether Sgt. Minardi threatened to arrest § 87(2)(b) and § 87(2)(b) or whether he would have been justified in doing so.

Finally, § 87(2)(b) cellphone footage does not appear to show Sgt. Minardi taking § 87(2)(b) cellphone from his right hand, and rather shows § 87(2)(b) placing the phone in his left hand, while Sgt. Minardi grabbed his right hand and turned him around and handcuffed him. The BWC footage is also consistent with Sgt. Minardi's testimony that § 87(2)(b) § 87(2)(b) and § 87(2)(b) outnumbered the two officers, and that § 87(2)(b) pushed PO Howe's hands away, and refused to give the officers his hands when requested to do so. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

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§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (F) Force: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe used physical force against § 87(2)(b).**

**Allegation (I) Force: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe used physical force against § 87(2)(b).**

**Allegation (J) Abuse of Authority: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe frisked § 87(2)(b).**

**Allegation (K) Abuse of Authority: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe searched § 87(2)(b).**

It is not disputed that PO Howe used physical force against § 87(2)(b). It is, however, disputed, whether PO Howe frisked, and searched § 87(2)(b) prior to § 87(2)(b) being placed under arrest. It is also disputed if PO Howe used physical force against § 87(2)(b).

PO Howe's BWC (Board Review 04) at 00:17, shows him approach § 87(2)(b) and Sgt. Minardi on the sidewalk. § 87(2)(b) who is wearing a grey sleeveless sweatshirt, bent forward, and appears to be reaching into his cargo pants pockets. At 00:19, a black rectangular object appears to be sticking out of § 87(2)(b) right sweatshirt pocket. At 00:20, § 87(2)(b) appears to attempt to put his right hand inside his back pant pocket. At 00:22, PO Howe grabs § 87(2)(b) right arm, and appears to pull § 87(2)(b) hand out of his pocket. At 00:22, PO Howe pushes § 87(2)(b) on his chest with both hands, and § 87(2)(b) takes approximately three steps backwards. § 87(2)(b) leans against a metal rail fence on the sidewalk. PO Howe places both hands on § 87(2)(b) chest, and appears to hold § 87(2)(b) against the fence. § 87(2)(b) and PO Howe are facing each other. At 00:31, the audio begins and PO Howe yells and orders § 87(2)(b) to stop reaching into his pockets. It is unclear from the footage if § 87(2)(b) attempts to reach into his pockets again. At 00:35, § 87(2)(b) appears to be holding a wallet and some money in his left hand. At 00:36, § 87(2)(b) shrugs PO Howe's hands off his body, and tells PO Howe not to touch him. PO Howe, whose hands appear to be on the sides of § 87(2)(b) midsection, tells § 87(2)(b) that he wants to make sure § 87(2)(b) does not have any weapons. § 87(2)(b) again tells PO Howe not to touch him, and that he does not have anything on him. At 00:48, § 87(2)(b) says PO Howe cannot legally enter § 87(2)(b) pocket. PO Howe appears to be moving his hand around § 87(2)(b) sweatshirt, but it is unclear if he reaches inside § 87(2)(b) pockets. At 00:53, PO Howe places his left hand on § 87(2)(b) chest, and tells § 87(2)(b) to stop moving and reaching into his pocket. At 01:00, PO Howe pushes § 87(2)(b) on his chest, and orders § 87(2)(b) to stop reaching into his pocket. § 87(2)(b) again appears to shrug PO Howe's hands off his body. At 01:10, PO Howe orders § 87(2)(b) to turn around, but § 87(2)(b) does not appear to comply. At 01:12, PO Howe and Sgt. Minardi turn § 87(2)(b) around, and pin him against the metal rail. PO Howe grabs and brings § 87(2)(b) left hand behind his back. At 01:47, PO Howe obtains § 87(2)(b) right arm, and handcuffs him.

§ 87(2)(b) alleged that PO Howe grabbed his arm immediately as the officers approached the sidewalk, and that he pushed PO Howe's hands away. PO Howe then attempted to reach inside § 87(2)(b) pant pocket, but § 87(2)(b) again pushed PO Howe's hand away, and told PO Howe not to touch or enter his pockets. § 87(2)(b) did not know why PO Howe wanted to reach inside his pockets, said he only had his wallet inside his pocket, and denied having any bulges on his person. PO Howe pushed § 87(2)(b) on his chest towards the metal fence, and then reached his hands inside § 87(2)(b) pocket which contained § 87(2)(b) wallet. § 87(2)(b) with a closed fist, punched PO Howe's hand out of his pocket. He did not recall if PO Howe removed anything from his pocket, nor did he recall if PO Howe reached inside any of his other pockets.

§ 87(2)(b) and § 87(2)(b) did not recall seeing any of the officers frisk or search § 87(2)(b) prior to § 87(2)(b) being handcuffed. § 87(2)(b) however, said that he attempted to approach § 87(2)(b) while § 87(2)(b) was arguing with PO Howe, and that



PO Howe pushed § 87(2)(b) on his shoulder and ordered § 87(2)(b) to move back. § 87(2)(b) took approximately three steps backwards as a result of PO Howe's push, but did not sustain any injuries.

PO Howe said that he immediately observed the black rectangular object sticking out of § 87(2)(b) sweatshirt pocket as he approached the sidewalk, and that the color and shape of the object, which per his experience resembled the tail of a firearm, caused him to worry that § 87(2)(b) was in possession of a firearm. PO Howe thus instructed § 87(2)(b) multiple times not to reach inside any of his pockets, but § 87(2)(b) ignored his orders and reached inside his pockets. PO Howe, however, did not recall which pockets § 87(2)(b) entered, nor did he recall observing any other bulges on § 87(2)(b) person, but said his main concern was the rectangular object in § 87(2)(b) sweatshirt pocket. PO Howe thus pulled § 87(2)(b) arm out of his pocket, and pushed § 87(2)(b) on his chest towards the fence in order to establish control over the unfolding situation, and to prevent § 87(2)(b) from reaching inside his pocket. § 87(2)(b) however, continued on multiple occasions to attempt to reach inside his pocket, despite multiple orders not to do so, and thus caused PO Howe to become more concerned that § 87(2)(b) was in possession of a firearm. PO Howe grabbed both of § 87(2)(b) arms in an attempt to prevent him from reaching into his pockets. PO Howe then grabbed and squeezed around § 87(2)(b) left sweatshirt pocket on the outside of § 87(2)(b) clothes to check whether the object in § 87(2)(b) pocket was a firearm. PO Howe felt what appeared to be bristles and a handle of a brush when he grabbed and squeezed § 87(2)(b) sweatshirt pocket, and thus concluded that the object in § 87(2)(b) pocket was not a firearm, but a hairbrush. PO Howe did not recall squeezing around the other pockets on § 87(2)(b) clothing, and denied reaching inside any of § 87(2)(b) pockets at any point prior to § 87(2)(b) being placed under arrest. PO Howe also did not recall interacting with § 87(2)(b) at any point during this incident, and thus did not recall pushing or using any physical force against § 87(2)(b).

Sgt. Minardi did not recall seeing PO Howe frisk or search § 87(2)(b) at any point prior to being placed under arrest, nor did he recall if PO Howe would have been justified in doing so. Sgt. Minardi, however, acknowledged that § 87(2)(b) appeared to be reaching into his pockets when the officers approached the sidewalk, and that § 87(2)(b) at one point reached inside one of his pockets, and appeared to be holding onto something. Sgt. Minardi could not describe what § 87(2)(b) had in his pocket, nor did he recall if he was concerned that § 87(2)(b) had a weapon on his person.

NYPD Patrol Guide Procedure 221-01, permits officers to use force when it is reasonable to ensure their safety, to gain compliance, to place a person into custody or to prevent an escape from custody. In determining whether the use of force is reasonable, officers shall consider the actions taken by the subject, and the immediacy of the perceived threat or harm to the subject, officers, and/or bystanders (Board Review 14).

An officer can frisk an individual if the officer reasonably believes that the individual is armed and dangerous. The officer can also arrest and search the individual when the officer has probable cause to believe that the individual has committed a crime, People v. DeBour 40 N.Y.2d 210 (1976) (Board Review 15).

An officer must have probable cause to believe that a hard object felt during a frisk is a weapon to then remove it from the pocket, People v. Ventura, 139 A.D.2d 196 (1988) (Board Review 34).

The video evidence established that there was a dark rectangular object which appeared to be the handle of something, visibly sticking out of § 87(2)(b) left sweatshirt pocket, and that § 87(2)(b) on at least two occasions, attempted to reach into his pant pockets as the officers approached him and his two co-workers on the sidewalk. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) from reaching inside his pocket, especially when PO Howe had yet to ascertain whether the object in § 87(2)(b) pocket was a weapon. § 87(2)(g)

PO Howe said that he determined the hard object in § 87(2)(b) pocket to be a brush after frisking § 87(2)(b) but § 87(2)(b) said PO Howe reached inside his pocket as soon as the officers approached, and that § 87(2)(b) only had a wallet in his pocket. § 87(2)(g)

However, PO Howe stated that did not enter into any of § 87(2)(b) pockets prior to him being placed under arrest. It is unclear from the footage if PO Howe reached inside § 87(2)(b) pockets prior to § 87(2)(b) being placed under arrest. § 87(2)(g)

**Allegation (G) Discourtesy: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe spoke discourteously to § 87(2)(b).**

**Allegation (H) Discourtesy: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe spoke discourteously to § 87(2)(b).**

**Allegation (L) Abuse of Authority: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe threatened § 87(2)(b) with the use of force.**

**Allegation (M) Abuse of Authority: At Leonard and Stagg Streets in Brooklyn, Sergeant Gregg Minardi threatened § 87(2)(b) with the use of force.**

It is not disputed that PO Howe and Sgt. Minardi threatened to tase § 87(2)(b) BWC captured PO Howe curse at § 87(2)(b) and § 87(2)(b) however, they did not allege that PO Howe spoke discourteously to them.

PO Howe's BWC at 00:38, shows PO Howe saying to § 87(2)(b) "You better calm the fuck down," soon after PO Howe pushed § 87(2)(b) on his chest. At 00:51, PO Howe says to § 87(2)(b) "back the fuck up," while appearing to reach for § 87(2)(b) arms. At 00:59, PO Howe says to § 87(2)(b) "You are going to jail bro, for fucking bullshitting [inaudible]." At 01:12, PO Howe and Sgt. Minardi turn § 87(2)(b) around, and handcuff his left arm. The officers appear to struggle to obtain § 87(2)(b) right arm. It is unclear from the footage what § 87(2)(b) does with his right arm. At 01:28, PO Howe says to § 87(2)(b) "You are going to get tased if you keep doing that." Sgt. Minardi tells § 87(2)(b) to give the officers his arm. At 01:40, PO Howe says to § 87(2)(b) "You are going to get fucking tased bro." At 01:42, Sgt. Minardi appears to point a Taser towards § 87(2)(b) midsection, and orders § 87(2)(b) to put his hand behind his back. At 01:48, the two officers obtain § 87(2)(b) right arm and handcuff him.

Sgt. Minardi's BWC (Board Review 05), at 00:25, shows PO Howe and Sgt. Minardi turning § 87(2)(b) around, and handcuffing his left arm. § 87(2)(b) appears to put his right arm through the rails of the metal fence, and appears to be holding onto the rails. At 00:33, PO Howe says to § 87(2)(b) "You are going to get tased if you keep doing that." At 00:34, Sgt. Minardi appears to take his Taser out of his holster, point the Taser towards § 87(2)(b) midsection, and orders § 87(2)(b) to remove his hand from the rails. At 00:39, § 87(2)(b) appears to remove his right hand from between the rails of the fence. At 00:41, Sgt. Minardi, still

pointing the Taser at § 87(2)(b) orders § 87(2)(b) to put his hands behind his back. At 00:50, § 87(2)(b) is handcuffed, and Sgt. Minardi appears to holster his Taser.

§ 87(2)(b) cellphone footage at 00:10 captures PO Howe order § 87(2)(b) to turn around. At 00:15, PO Howe and Sgt. Minardi turn § 87(2)(b) around and handcuff his left arm. At 00:20, § 87(2)(b) right arm appears to be between the rails of the fence. Sgt. Minardi reaches his arm through the fence, and attempts to grab § 87(2)(b) right arm, but appears to be unsuccessful. At 00:22, Sgt. Minardi takes out his Taser and points it at § 87(2)(b) At 00:41, § 87(2)(b) is handcuffed.

§ 87(2)(b) said he placed his right arm between the rails of the fence because the officers never informed him why he was under arrest, and that he wanted the officers to obtain his arm themselves. § 87(2)(b) however, denied resisting the officers at any point during this incident. He also did not allege that PO Howe used any profanities towards him.

§ 87(2)(b) did not allege that PO Howe used profanities towards him.

PO Howe acknowledged being the officer captured in the BWC using profanities toward § 87(2)(b) and § 87(2)(b) and said while it was not his intention to use such coarse language towards the two men, such language was necessary to establish control and authority over the encounter, as well as gain compliance from § 87(2)(b) who was extremely uncooperative and aggressive. PO Howe said he informed § 87(2)(b) that he would be tased in order to gain compliance from § 87(2)(b) because § 87(2)(b) refused to give the officers his right arm to be handcuffed.

Sgt. Minardi said the sole reason why he pointed his Taser at § 87(2)(b) was because § 87(2)(b) refused to give the officers his right arm while being placed under arrest, and that § 87(2)(b) could have been tased if he ultimately failed to give the officers his arm.

NYPD Patrol Guide Procedure 203-09, states that officers must be courteous and respectful when interacting with members of the public (Board Review 16). However prior NYPD disciplinary cases have held that the use of profane remarks during stressful situations, or while an officer is trying to get a chaotic situation under control, does not constitute misconduct, DAO-DCT Disciplinary Case No. 2017-17005 (Board Review 17).

NYPD Patrol Guide Procedure 221-08, states that conducted electrical weapons (CEW) should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons actually present. Active resistance includes physically evasive movements that defeat an officer's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody (Board Review 18).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) PO Howe's statement to § 87(2)(b) about going to jail for "fucking bullshitting," § 87(2)(g) was made during the point of the encounter where the officers were struggling to reach for § 87(2)(b) arms and handcuff him so while not a direct order, was referring to the consequences of his uncooperative behavior. § 87(2)(g)

The video evidence also establishes that § 87(2)(b) wrapped his right arm around the metal rails while being placed under arrest, and that he failed to comply with multiple orders to give the officers his arm. § 87(2)(g)



§ 87(2)(g)

**Allegation (O) Abuse of Authority: At Leonard and Stagg Streets in Brooklyn, Police Officer Michael Crichlow searched § 87(2)(b)**

It is undisputed that PO Crichlow searched § 87(2)(b)

PO Howe's BWC (Board Review 04), at 03:30, shows responding officers, PO Vukosa, PO Manetta, and PO Crichlow, approach PO Howe, Sgt. Minardi, and the three civilians. § 87(2)(b) and § 87(2)(b) are in handcuffs, but § 87(2)(b) is not cuffed. PO Crichlow, who is standing next to § 87(2)(b) appears to reach both his hands inside § 87(2)(b) front hoodie pocket. PO Crichlow does not appear to remove anything from § 87(2)(b) pocket. § 87(2)(b) appears to have some items in his hoodie pocket, which appear to create a big bulge. At 03:39, PO Crichlow appears to reach his hands inside § 87(2)(b) side and back pants pockets. Sgt. Minardi's BWC (Board Review 05), at 02:30, captures § 87(2)(b) telling PO Crichlow that he has his phone inside his hoodie pocket. At 02:50, PO Crichlow appears to reach his hand inside § 87(2)(b) right and left pants pockets. There does not appear to be any bulge in § 87(2)(b) pants pockets.

§ 87(2)(b) did not know why PO Crichlow searched his pockets, and denied giving PO Crichlow permission to search his pockets.

PO Crichlow (Board Review 19) had no recollection of this incident, except that he, together with PO Manetta and PO Vukosa, responded to the scene to assist PO Howe and Sgt. Minardi. PO Crichlow did not recall how he was alerted to the incident, did not know the circumstances surrounding the stop, nor did he recall being provided with any information once he arrived on scene. PO Crichlow first said he did not know why he searched § 87(2)(b) but later said he assumed § 87(2)(b) was under arrest when he arrived on scene, and thus searched § 87(2)(b) incident to arrest. PO Crichlow did not recall being informed by any of the officers that § 87(2)(b) was under arrest, but said he assumed § 87(2)(b) was under arrest because § 87(2)(b) and § 87(2)(b) were handcuffed when PO Crichlow arrived on scene. PO Crichlow provided no other reasons for searching § 87(2)(b) and did not recall observing any bulges on § 87(2)(b) person.

PO Howe and Sgt. Minardi denied that § 87(2)(b) was under arrest, did not recall informing any of the responding officers that § 87(2)(b) and § 87(2)(b) were under arrest, and did not know why PO Crichlow searched § 87(2)(b)

A search must be incident to an actual arrest, not just to probable cause that might have led to an arrest, but did not, People v. Reid, 24 N.Y.3d 615 (2014) (Board Review 20).

§ 87(2)(g)

**Allegation (P) Abuse of Authority: At Leonard and Stagg Streets in Brooklyn, Police Officer Tyler Howe searched § 87(2)(b)**

§ 87(2)(b) did not allege being searched by PO Howe or any other officer.

PO Howe's BWC (Board Review 04) at 04:00, shows Sgt. Minardi appearing to instruct PO Howe and PO Crichlow, who are standing next to § 87(2)(b) and § 87(2)(b) respectively, to obtain § 87(2)(b) and § 87(2)(b) information. At 04:12, PO Howe asks § 87(2)(b) who is handcuffed, for his ID. At 04:16, § 87(2)(b) slightly turns to his left side, and says to PO Howe, "check in this pocket right here." PO Howe appears to reach inside § 87(2)(b) left pant

pocket and removes § 87(2)(b) wallet. At 06:06, PO Howe returns the wallet inside § 87(2)(b) pocket, and removes § 87(2)(b) handcuffs.

PO Howe said he reached inside § 87(2)(b) left pant pocket because § 87(2)(b) voluntarily instructed him to do so to obtain his ID, and that the officers' needed § 87(2)(b) ID to verify his identify, check for open warrants, and ultimately prepare a stop and frisk report. PO Howe did not know if he could have searched § 87(2)(b) pocket, absent consent.

Consent to search is voluntary when it is a true act of the will, an unequivocal product of an essentially free, and unconstrained choice. Voluntariness is incompatible with official coercion, actual or implicit, overt, or subtle. An important, although not dispositive, factor in determining the voluntariness of an apparent consent is whether the one who consents is in custody or under arrest. Custody endangers the atmosphere of authority to consent, and is ordinarily inconsistent with the capacity to exercise a free and unconstrained will. The fact that a person is handcuffed is considered a significant factor in determining whether apparent consent is a capitulation to authority. Capitulation to authority is not consent. People v. Gonzalez, 39 N.Y.2d 122 (1976) (Board Review 21). Per Patrol Guide procedure 212-11 (43. b), officers are to check "REFUSED" for those people who refuse to identify themselves for the purpose of a Stop and Frisk (250) report (Board Review 35).

PO Howe said he only reached inside § 87(2)(b) pocket because § 87(2)(b) told him to do so, as depicted in the video, and that he considered § 87(2)(b) instruction as indicative of consent. § 87(2)(g) § 87(2)(b) was § 87(2)(g) § 87(2)(b) handcuffed, detained, and surrounded by at least three officers, and thus appeared to submit PO Howe's authority when the latter requested his ID. § 87(2)(b) apparent submission to the officer's authority therefore nullifies his consent. Additionally, PG 212-11 allows for the refusal of a civilian to identify themselves. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (Q) Abuse of Authority: Sergeant Gregg Minardi failed to provide § 87(2)(b) with a business card.**

**Allegation (R) Abuse of Authority: Sergeant Gregg Minardi failed to provide § 87(2)(b) with a business card.**

It is undisputed that Sgt. Minardi failed to provide § 87(2)(b) and § 87(2)(b) with business cards.

Sgt. Minardi said § 87(2)(b) and § 87(2)(b) left the scene before he had the chance to give them his business card, and he and PO Howe verbally provided their badge numbers to § 87(2)(b) upon request.

Sgt. Minardi's BWC at 05:24, captures him warning § 87(2)(b) and § 87(2)(b) to be careful next time when crossing the street. Sgt. Minardi then explains to § 87(2)(b) why he was handcuffed, and § 87(2)(b) was not. At 06:15, § 87(2)(b) requests the badge numbers of Sgt. Minardi and PO Howe, and they both verbally provide their badge numbers. At 06:20, Sgt. Minardi says to the two men as they walk away, "I will be happy to answer CCRB for that." Sgt. Minardi then walks to his vehicle.

A business card is to be offered for a law enforcement activity, including stops, frisks, and searches of persons, except in cases when a summons is issued, or an arrest is made, NYC Administrative Code 14-174 (Board Review 22).

The video evidence establishes that Sgt. Minardi did not attempt to give § 87(2)(b) and § 87(2)(b) business cards at the conclusion of the incident, and that he had ample time to do so. That Sgt. Minardi and PO Howe verbally provided their badge numbers to § 87(2)(b) does not satisfy the requirement that Sgt. Minardi provide § 87(2)(b) and § 87(2)(b) with business

cards. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) § 87(2)(b) and § 87(2)(b) have been parties (Board Review 27 – Board Review 29).
- Sgt. Minardi has been a member of service for 15 years, and has been a named subject in 15 CCRB complaints, and 42 allegations, seven of which were substantiated:

- Case #201806785 involved a substantiated frisk allegation. The Board and the NYPD both recommended and imposed formalized training, respectively.
- Case #201900335 involved two substantiated allegations of failure to provide business cards. The Board recommended formalized training, and the NYPD imposed instructions.
- Case #201901352 involved a substantiated failure to provide business card allegation. The Board recommended Command Level Instructions. The NYPD imposed instructions.
- Case #201906121 involved a substantiated failure to provide business card and threat of arrest allegations. The Board recommended Command Level Instructions for both allegations, and the NYPD imposed instructions for both allegations.
- Sgt. Minardi has a total of six allegations of failure to provide business cards, all of which were substantiated.
- PO Howe has been a member of service for four years, and has been a named subject in seven CCRB complaints, and 26 allegations, two of which were substantiated:
  - Case #201810683 involved a substantiated discourtesy word allegation. The Board recommended Command Level Instructions. The NYPD imposed instructions.
  - Case 201906121 involved a substantiated failure to provide business card allegation. The Board recommended Command Level Instructions. The NYPD imposed instructions.
  - § 87(2)(g) [REDACTED]
- PO Crichlow has been a member of service for five years, and has been a named subject in four CCRB complaints, and 13 allegations, one of which was substantiated:
  - Case #201906121 involved a substantiated failure to provide business card allegation. The Board recommended Command Level Instructions. The NYPD imposed instructions.
  - § 87(2)(g) [REDACTED]

#### **Mediation, Civil and Criminal Histories**

- This case was not suitable for mediation.
- As of May 6, 2020, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards this to complaint (Board Review 30).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
- [REDACTED]
- [REDACTED]

Squad No.: 1

